

**DEPARTMENT OF STATE REVENUE
REVENUE RULING # ST 97-02**

MAY 29, 1997

NOTICE: Under IC 422-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Indiana Sales/Use Tax -- Application of exemption certificates to purchases by teachers

STATEMENT OF FACTS

Taxpayer operates four (4) retail stores in Indiana selling supplementary material to teachers for their classrooms. Some of these items are for decoration and some are resource materials to enhance learning. The stores, also, sell motivational stickers, awards and pencils. These and many other items are sold to nonprofit organizations at the point of sale without a purchase order. The procedure in place for point of sale transactions is that the customer must give the taxpayer the exempt number, the organization and their signature. The taxpayer records the date and amount of sale.

Public school system teachers are allowed to purchase materials for use in their classroom and are reimbursed with tax dollars (\$111.00) per their bargaining agreement. The taxpayer requires identification (check stub or union card) from public school teachers for them to use the blanket certificate issued by the public school system for tax exempt purchases.

The taxpayer was audited by the Department. The audit report contained the following statement:

"The taxpayer has been put on notice that all sales to teachers are taxable unless a valid exemption certificate is obtained at the point of sale. The teachers cannot buy tax exempt under a blanket exemption certificate for the school system".

DISCUSSION

Indiana Code 6-2.5-8-8 provides that "a seller accepting a proper exemption certificate under this section has no duty to collect or remit the state gross retail tax or use tax on that purchase." Thus, it is clear that if the seller has a properly executed exemption certificate from one of the following persons, the seller is not required to collect tax on the transaction.

- (1) retail merchants, wholesalers, and manufacturers, who are registered with the department under this chapter;
- (2) organizations which are exempt from the state gross retail tax under IC 6-2.5-5-21, IC 6-2.5-5-25, or IC 6-2.5-5-26 and which are registered with the department under this chapter; and
- (3) other persons who are exempt from the state gross retail tax with respect to any part of their purchases.

Indiana Code 6-2.5-8-8(c) provides that:

- (c) The department may also allow a person to issue a blanket exemption certificate to cover exempt purchases over a stated period of time. The department may impose conditions on the use of the blanket exemption certificate and restrictions on the kind or category of purchases that are exempt.

In the instant case, the taxpayer is required to either collect sales/use tax from a teacher or accept a properly executed Indiana exemption certificate issued by the respective school system and signed by a school official. In such instance, the invoice must also be issued to the school system. Transactions made pursuant to a blanket exemption certificate must be done pursuant to a purchase order issued by the public school system and the invoice must be issued to the public school system.

RULING

The Department rules that if the taxpayer accepts a properly executed exemption certificate from his customer, then he has no further liability in regards to the transaction. The Department, also, rules that transactions with school teachers are subject to sales/use tax. Direct sales to the school system, whether a single purchase or pursuant to a blanket exemption certificate, must be substantiated by a properly executed exemption certificate signed by a school official with the purchase being invoiced to the school system.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any

material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.